

06-28-01

Docket # PF-0213-2 DIV



"Express Mail" mailing label number EL579977465 US. I hereby certify that this document and referenced attachments are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10, addressed to: Commissioner for Patents, Box Patent Application, Washington, D.C. 20231 on June 26, 2001

By: Nancy Ramos

Printed: Nancy Ramos



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
REQUEST FOR FILING A PATENT APPLICATION UNDER 37 CFR 1.53(b)**

Commissioner for Patents  
Box Patent Application  
Washington, D.C. 20231

Dear Sir:

This is a request for filing a **DIVISIONAL** application under 37 CFR 1.53(b) of pending prior application Serial No.09/213,391, filed on December 15, 1998, entitled HUMAN LEA-MOTIF DEVELOPMENTAL PROTEIN, which is a divisional of U.S. application Serial Number 08/796,676, filed February 6, 1997, issued January 12, 1999, as U.S. Patent No. 5,858,712, entitled CDNA ENCODING A LEA-MOTIF DEVELOPMENTAL PROTEIN HOMOLOGOUS TO AVIAN PX19.

1.  Enclosed is a specification corresponding to the prior application, U. S. Application Serial No. 08/796,676, filed February 6, 1997, including the oath or declaration as originally signed. The specification does not contain any subject matter that would have been new matter in the prior application.
2.  With regard to the requirement of 37 CFR 1.821(e) which requires that a copy of the Sequence Listing in computer readable form (CRF) be submitted, Applicants state that the paper copy of the Sequence Listing for the instant divisional application is identical with the computer readable form filed with Serial No. 08/796,676, filed February 6, 1997, to which priority is claimed. In accordance with 37 C.F.R. §1.821(e), please use the computer readable form filed with U.S. Application Serial No. 08/796,676, as the computer readable form for the instant divisional application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used for the instant divisional application.
3.  Cancel in this application original claims 16-24, and 30-44 before calculating the filing fee, without prejudice or disclaimer. Applicants submit that these claims were included in the application as filed in the interest of providing notice to the public of certain specific subject matter intended to be claimed, and are being canceled at this time in the interest of reducing filing costs. Applicants expressly state that these claims are not being canceled for reasons related to patentability, and are in fact fully supported by the specification as filed. Applicants expressly reserve the right to reinstate these claims or to add other claims during prosecution of this application or a continuation or divisional application. Applicants expressly do not

disclaim the subject matter of any invention disclosed herein which is not set forth in the instantly filed claims.

4.  The inventor(s) of the invention being claimed in this application is (are): Jennifer L. Hillman and Surya K. Goli.

5.  In accordance with 37 CFR 1.63(d) a copy of the originally signed declaration showing applicant's/applicants' signature(s) as filed on July 2, 1997 is enclosed.

6.  Amend the specification by inserting after the title: "This application is a divisional application of U.S. application serial number 09/213,391, filed December 15, 1998 , all of which applications and patents are hereby incorporated herein by reference."

7.  The filing fee is calculated below:

Claims	Number Filed	Minus	Number Extra	Other Than Small Entity Rate	Fee	Basic Fee
Total Claims	20	-20	0	x \$18		\$0
Indep. Claims	2	-3	0	x \$80		\$0
Multiple Dependent Claim(s), if any						+ \$270
						\$0

**TOTAL FILING FEE \$ 710.00**

8.  An extension of time in the above-named prior application has been requested and the fees therefore have been authorized in said application.

9.  Please charge Deposit Account No. 09-0108 in the amount of \$ 710.00.

The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account No. 09-0108.

A **duplicate** copy of this Request is enclosed.

10.  Submission for Formal Drawings (2 pp.), and Four (4) Sheets of New formal drawings are also enclosed; which includes Figures: 1A, 1B, 2, 3A, and 3B.

11.  The prior application is assigned of record to Incyte Genomics, Inc. (formerly Incyte Pharmaceuticals, Inc.), recorded on July 2, 1997, at reel 8651/frame 0750.

12.  A preliminary amendment is enclosed.

13.  Also enclosed Information Disclosure Statement (2 pp., in duplicate); List of References Cited PTO-1449 (1 pg.); copy of previously submitted Revocation and Power of Attorney (2 pp.).

X The power of attorney of the prior application is to:

Lucy J. Billings	Reg. No. 36,749
Michael C. Cerrone	Reg. No. 39,132

X The associate power of attorney in the prior application is to:

Diana Hamlet-Cox	Reg. No. 33,302
Richard C. Ekstrom	Reg. No. 37,027
Barrie D. Greene	Reg. No. 46,740
Matthew R. Kaser	Reg. No. 44,817
Lynn E. Murry	Reg. No. 42,918
Shirley A. Recipon	Reg. No. 47,016
Susan K. Sather	Reg. No. 44,316
David G. Streeter	Reg. No. 43,168
Christopher Turner	Reg. No. 45,167
Stephen Todd	Reg. No. 47,139
Peng Ben Wang	Reg. No. 41,420

- a.        An associate power of attorney is attached.
- b.        Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
- c. X Address all future correspondence to:

INCYTE GENOMICS, INC.  
 PATENT DEPARTMENT  
 3160 Porter Drive  
 Palo Alto, California 94304  
 Phone: (650) 855-0555, Fax: (650) 845-4166

Date: June 26, 2001

By: Barrie Greene  
 Barrie D. Greene  
 Reg. No. 46,740  
 Direct Dial Telephone: (650) 621-7576

- Inventor(s)
- Assignee of complete interest
- X Attorney or agent of record
- Filed under 37 CFR 1.34(a)
- Registration number if acting under 37 CFR 1.34(a) \_\_\_\_\_.

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By: Nancy Ramos

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hillman, et al.

Title: HUMAN LEA-MOTIF DEVELOPMENTAL PROTEIN

Serial No.: To Be Assigned Filing Date:

Examiner: To Be Assigned Group Art Unit: To Be Assigned

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Official Draftsman

Commissioner for Patents  
Washington, D.C. 20231

SUBMISSION OF FORMAL DRAWINGS

Sir:

Transmitted herewith are Figure(s) 1A, 1B, 2, 3A, and 3B, as four (4) sheets of formal drawings for this application. Each sheet of drawing indicates the identifying indicia suggested in 37 CFR Section 1.84(c) on the reverse side of the drawings.

Applicants believe that no fee is due with this paper. However, if the Commissioner determines that a fee is necessary, the Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 09-0108. A duplicate copy of this communication is enclosed.

If there are any questions regarding the above, the Examiner is invited to call the undersigned at 650-855-0555.

Respectfully submitted,  
INCYTE GENOMICS, INC.

Date: June 26, 2001

Barrie Greene  
Barrie D. Greene  
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